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PTO/SB/61 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

D-20846

First Named Inventor: Frank Notaro

Art Unit: 1724

Application Number: 09/664,390

Examiner: Robert H. Spitzer

Filed: 9/18/2000

Title: LOW VOID ADSORPTION SYSTEMS AND USES THEREOF

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of

RCE Information Disclosure Statement, (identify the type of reply):

Form PTO-1449, copy of European Search Report, copies of foreign

☒ has been filed previously on Fax Date 6/25/03 patent documents

☐ is enclosed herewith.

04/27/2005 SZEWDIE1 00000030 162440 09664390

B The issue fee of \$ _____

01 FC:1452 500.00 DA

☐ has been filed previously on _____

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

| | |
|-----------------------------------------------------|-----------------------------------------------------|
| <u>Mary Raynor Jimenez</u> Signature | <u>4/25/05</u> Date |
| <u>Mary Raynor Jimenez</u> Typed or printed name | <u>37,219</u> Registration Number, if applicable |
| <u>39 Old Ridgebury Road</u> Address | <u>(203) 837-2285</u> Telephone Number |
| <u>Danbury, CT 06810-5113</u> Address | |

- Enclosure ☒ Fee Payment (Authorization to charge petition fee to Deposit Account No. 16-2440)
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

Date

Signature

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Mary Raynor Jimenez
Signature

4/25/05
Date

Mary Raynor Jimenez

Typed or printed name

37,219

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

PLEASE SEE ATTACHED SUBMISSION.

(Please attach additional sheets if additional space is needed.)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/664,390

Group Art Unit: 1724

Inventors: Notaro et al.

Filed: 9/18/2000

Title: LOW VOID ADSORPTION SYSTEMS
AND USES THEREOF

Examiner: Robert H. Spitzer

PETITION TO REVIVE APPLICATION FOR UNAVOIDABLE ABANDONMENT
PURSUANT TO UNDER 37 C.F.R. 1.137(a)

Attention: Office of Petitions

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully submit this Petition to Revive Application for Unavoidable Abandonment pursuant to 37 C.F.R. 1.137(a). The present application was found to be abandoned for failure to timely pay the Issue Fee. As set forth hereinbelow, Applicants submitted a Request for Continued Examination ("RCE") together with an Information Disclosure Statement ("IDS") prior to the due date for payment of the Issue Fee. Consequently, it is respectfully submitted that the present application should never have been deemed abandoned. As grounds for granting Applicants' Petition, the following information is provided.

1. On June 21, 2002, a final Office Action was mailed (responsive to an Amendment submitted on June 12, 2002). An Amendment After Final Rejection was submitted on November 13, 2002 and a Notice of Allowance was mailed by the U.S. Patent and Trademark Office ("PTO") on November 20, 2002 (the "first Notice of Allowance").

2. On February 19, 2003, prior to the due date of February 20, 2003 for payment of the Issue Fee, Applicants submitted (via facsimile) a Request for Continued Prosecution of Application ("CPA") together with an IDS and Preliminary Amendment. Based on a conversation with one of the prior attorneys assigned to this case and an individual at the PTO, a letter of March

24, 2003 together with a copy of the February 19, 2003 submission were sent by facsimile to the PTO.

3. On April 9, 2003, a second Notice of Allowance was mailed and indicates that the Notice of Allowance is responsive to the "RCE, Amendment and statement of art received Feb. 19 and Mar. 24, 2003" (the "second Notice of Allowance"). As indicated above, the February 19, 2003 submission included a CPA rather than a RCE.

4. On June 25, 2003 (prior to the July 9, 2003 due date to pay the Issue Fee for the second Notice of Allowance), a RCE together with an IDS and Form PTO-1449 were submitted by facsimile. Upon information and belief, a copy of the June 25, 2003 submission is attached hereto as "Exhibit A". A copy of the transmittal page indicating receipt of the submission on June 25, 2003 at the PTO is attached hereto as "Exhibit B".

5. A Notice of Abandonment for failure to pay the Issue Fee was mailed August 19, 2003. As of October 21, 2003, the attorney assigned to this case had left the employment of the assignee and the case was assigned to another attorney. This latter attorney filed a "Petition To Enter The CPA Papers Filed By Facsimile Prior To Abandonment" on October 21, 2003. This Petition made reference to the filing of February 19, 2003 and the first Notice of Allowance.

6. While the Notice of Abandonment made no reference as to which Notice of Allowance and Issue Fee had not been responded to, the undersigned believes it was intended to refer to the second Notice of Allowance. The Petition therefore erroneously made reference to the first Notice of Allowance rather than the second Notice of Allowance.

7. The attorney who filed the "Petition To Enter The CPA Papers Filed By Facsimile Prior To Abandonment" has since left the employment of the assignee and the case was again reassigned. A Status Inquiry was submitted on August 30, 2004 by another attorney assigned to the case. A telephone call with the PTO in response to the Status Inquiry indicated the application was abandoned.

8. To date, a response to the Petition filed on October 21, 2003 does not appear to have been received. The present Petition To Revive pursuant to 37 C.F. R. 1.137(a) is therefore being submitted.

9. In view of the foregoing remarks, it is respectfully submitted that the application should never have been abandoned and thus any abandonment was

unavoidable. More specifically, the due date to pay the Issue Fee for the second Notice of Allowance was July 9, 2003. Prior to that date (namely, June 25, 2003), Applicants submitted the RCE, IDS and Form PTO-1449. Thus, the next action in the case should have been a response from the PTO to the June 25, 2003 submission.

10. It is, therefore, respectfully submitted that no response or Issue Fee is due at this time. Rather, it is respectfully requested that the present application be revived and that a response to Applicants' June 25, 2003 submission be issued.

11. Given that the abandonment was due to PTO error, it is respectfully requested that the petition fee set forth in 37 C.F.R. 1.17(l) be waived. Should a fee be required, please charge the fee to Deposit Account No. 16-2440. This Petition is submitted in duplicate.

Respectfully submitted,


Mary Raynor Jimenez
Attorney for Assignee
Reg. No. 37,219

Praxair, Inc.
39 Old Ridgebury Rd.
Danbury, Connecticut 06810
(203) 837-2285
April 25, 2005
D-20846

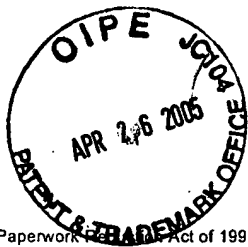


EXHIBIT A

VIA FAX 703.305.7718

PTO/SB/30 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000,
provides for continued examination of an utility or plant application
filed on or after June 8, 1995.

See The American Inventors Protection Act of 1999 (AIPA).

| | |
|------------------------|--------------|
| Application Number | 09/664,390 |
| Filing Date | 9/18/2000 |
| First Named Inventor | Frank Notaro |
| Group Art Unit | 1724 |
| Examiner Name | Spitzer |
| Attorney Docket Number | D-20846 |

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See *Changes to Application Examination and Provisional Application Practice*, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. Submission required under 37 C.F.R. § 1.114

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on _____
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- iii. ☐ Other _____
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other _____

3. Fees

- The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.
- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 16-2440
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)
- ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

| | | | |
|-------------------|--------------------------|-----------------------------------|---------------|
| Name (Print/Type) | Robert J. Follett | Registration No. (Attorney/Agent) | 39566 |
| Signature | <i>Robert J. Follett</i> | Date | June 25, 2003 |

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on:

| | |
|-------------------|--|
| Name (Print/Type) | |
| Signature | |
| Date | |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND Fees and Completed Forms to the following address: Assistant Commissioner for Patents, Box RCE, Washington, DC 20231.



** TX CONFIRMATION REPORT **

AS OF JUN 25 '00 4:06 PAGE.01

PRAXAIR

DATE TIME TO/FROM MODE MIN/SEC PGS CMD# STATUS
02 06/25 13:51 917033057718 EC--S 14'43" 045 150 OK

EXHIBIT B

VIA FAX 703.305.7718

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Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PTO/SB/30 (08-00)

| | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--------------|
| REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995. See The American Inventors Protection Act of 1999 (AIPA). | Application Number | 09/664,390 |
| | Filing Date | 9/18/2000 |
| | First Named Inventor | Frank Notaro |
| | Group Art Unit | 1724 |
| | Examiner Name | Spitzer |
| | Attorney Docket Number | D-20846 |

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NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continuant prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50022 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14885 (Mar. 20, 2000); 1293 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**

a. ☐ Previously submitted

i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on _____
(Any unentered amendment(s) referred to above will be entered).

ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

iii. ☐ Other _____

b. ☒ Enclosed

i. ☐ Amendment/Reply

ii. ☐ Affidavit(s)/Declaration(s)

iii. ☒ Information Disclosure Statement (IDS)

iv. ☐ Other _____

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)

b. ☐ Other _____

3. **Fees**

The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 16-2440

i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)

ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)

iii. ☐ Other _____

b. ☐ Check in the amount of \$ _____ enclosed

c. ☐ Payment by credit card (Form PTO-2036 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type) Robert J. Follett

Signature *Robert J. Follett*

Registration No. (Attorney/Agent) 39566

Date June 25, 2000

CERTIFICATE OF MAILING OR TRANSMISSION

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Name (Print/Type)

Signature

Date

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